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February 6, 2004

The Honorable F. James Sensenbrenner, Jr.
Chairman
Committee on the Judiciary
U.S. House of Representatives
2138 Rayburn House Office Building
Washington, DC 20515

The Honorable Lamar Smith
Chairman
Subcommittee on Courts, the Internet, and
Intellectual Property
Committee on the Judiciary
U.S. House of Representatives
B-351-A Rayburn House Office Building
Washington, DC 20515

Dear Chairman Sensenbrenner and Chairman Smith:

We are writing to request that the Committee on the Judiciary hold hearings on possible gaps in federal laws governing the recusal of federal judges and justices from cases pending before them.

There appear to be inconsistent procedures for addressing judicial misconduct and recusal. The Judicial Improvements Act of 2002, through which we worked cooperatively to streamline the procedure for filing and resolving misconduct complaints against judges, establishes a process for the courts, at incrementally higher levels, to review complaints. With respect to recusal, however, the only guideline is that each judge or justice must decide whether to recuse himself from a case. In contrast to the misconduct laws, the recusal laws contain no process for potential conflicts to be reviewed by other judges.

This statutory omission came to light in a recent letter from Chief Justice Rehnquist to Members of the U.S. Senate on Supreme Court recusal standards. Responding to these Senators' concerns about Justice Scalia's duck-hunting trip with Vice President Cheney, who is a named litigant in a case before the Supreme Court, Chief Justice William Rehnquist stated that, while the Justices abide by federal ethics laws, "there is no formal procedure for Court review of a decision of a Justice in an individual case. This is because it has long been settled that each Justice must decide such a question for himself."

No one is questioning the integrity of any of the Justices, but the Committee must consider what procedures are, or should be, in place to address potential conflicts. There are a

Messrs. Sensenbrenner and Smith

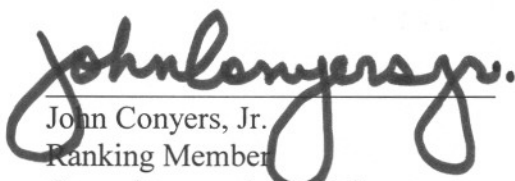
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variety of legislative options that should be explored for situations that may arise in the future, such as whether each court should have a panel of judges or justices who would review and decide on potential conflicts.

We would look forward to working with you on scheduling such a hearing. Please contact us or our staffs so that we may proceed on this important matter.

Sincerely,


John Conyers, Jr.
Ranking Member
Committee on the Judiciary


Howard L. Berman
Ranking Member
Subcommittee on Courts, the Internet, and
Intellectual Property